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08 UNITED STATES DISTRICT COURT
09 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 UNITED STATES OF AMERICA,) No. 05-508M
12 Plaintiff,)
13 v.) ORDER DENYING SECOND
14 DONALD HOFF,) STIPULATED MOTION
15 Defendant.) TO EXTEND TIME TO
16) FILE INDICTMENT
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On December 14, 2005, the parties to the above-captioned matter filed a Second Stipulated Motion to Extend Time to File Indictment. Dkt. No. 14. The motion argued that granting a continuance would satisfy the “ends of justice” by providing the parties additional time to review discovery and to complete plea negotiations. In addition, counsel cited vacation plans and a January trial in support of the motion.

Congress“ did not intend the ‘ends of justice’ exclusion to be granted as a matter of course but rather [intended it] to be used sparingly and only when necessary.” *United States v. Lewis*, 980 F.2d 555, 560 (9th Cir. 1992) (internal citations omitted). Hence, an “ends of justice” exclusion may be granted only for a specific duration when “justified by the record with reference to the facts.” *United States v. Ramirez-Cortez*, 213 F.3d 1149, 1154 (9th Cir.

01 2000) (internal citations and punctuation omitted). Generalized assertions that the “ends of
02 justice” will be satisfied by the granting of a continuance are insufficient. *Id.* at 1154-55.
03 Moreover, an ongoing plea agreement negotiation is not a factor sufficient for this Court to
04 find that granting a continuance will satisfy the “ends of justice.” *Id.* at 1155-56 (citing
05 *United States v. Perez-Reveles*, 715 F.2d 1348, 1352 (9th Cir. 1983)).

06 Here, the parties have not provided any facts sufficient to justify granting a
07 continuance. The stipulated motion references only a need to review discovery, without
08 providing any indication of the amount of discovery or complexity thereof. Moreover, the
09 waiver of speedy indictment, while signed by Mr. Hoff, is on a pleading entitled *United*
10 *States of America v. Juan Guevara-Vielma*, CR05-419-RSL, and refers to Mr. Guevara-
11 Vielma as the person receiving advice about his rights to a speedy indictment. This causes
12 the Court concern about whether there has been an effective waiver by the defendant.

13 The Court acknowledges counsel’s vacation plans. However, the present stipulated
14 motion does not satisfy the “ends of justice” exclusion. It appears to be a boilerplate motion.

15 The motion is DENIED, without prejudice to the parties filing an appropriately
16 supported motion if they wish to do so.

17 DATED this 15th day of December, 2005.

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21 JAMES P. DONOHUE
22 United States Magistrate Judge
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